IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Misc.Petition No. 8 of 2006

1. Deepinder Singh Khorana
and another ..Petitioners

vs.

Master Jyotveer Singh Khorana ..Respondent

Mr.J.P.Sen with Ms.R.Millwalla i/b M/s Matubhai Jamietram and Co. for petitioners.
Mr.I.A.Patel for valuer.

CORAM: R.S.MOHITE J.
22nd NOVEMBER, 2006

P.C.

1. Heard the Advocate for the petitioners and Advocate for the valuer. The petitioners are natural parents of the respondent Master Jyotveer Singh Khorana. The minor has properties consisting of two flats and share in the cooperative society. These two flats are situated in Joanna Premises Cooperative Society Ltd. and there is open parking space and garage which also is a property of the minor. The petition is for sale of these two flats being flat Nos.401 and 402 along with the shares, open parking space and garage, and for purchase of two flats being flat nos.305 and 306 in Meghdoot A

building situated at village Oshivara, Taluka Andheri out of the sale proceeds of the flats held in the name of the minor. I have perused the report of the guardian ad-litem dated 14th November, 2006. The Guardian Ad-litem had appointed M/s AT and TS Associates as valuers and the valuation report is submitted in respect of all the four flats. On perusal of the report it is evident that the valuation of the two flats being purchased is less than the value of the two flats being sold. Similarly the valuation in respect of two flats being purchased is more than their purchase price.

2. It is further prayed in the petition that the difference between the sale proceeds and the purchase price may be invested in long term specified assets. The Advocate for the petitioners states that this should be the investment as contemplated by section 54-EC of the Income Tax Act. In his report, the Guardian Ad-litem has stated that he does not find anything in the transaction which is prejudicial to the interest of the minor. The amount which is being realised from the sale of two flats at Bandra is Rs.2,84,00,000/- (Rupees Two crores and

eighty four lacs) whereas the total cost of purchase of flats in Andheri would be Rs.1,19,53,348/- The balance amount which would be available by way of difference would be Rs.1,67,47,652/-.

3. In my view, the sale and purchase as aforesaid and as prayed for can be allowed subject to the balance amount of Rs.1,67,47,652/- being deposited in the office of the Prothonotary and Sr.Master. I am informed that the amount of Rs.13,00,000/- is likely to be incurred for the purpose of interior decoration of two flats at Andheri. However, there is only an estimate which is enclosed along with the petition. The bills of the interior decorator are not available. In the circumstances on receipt of the amount of Rs.1,67,47,652/- the Prothonotary and Sr.Master will invest an amount of Rs.1.62 crores in the name of the minor in long term specified assets as contemplated by sec.54-EC of the Income Tax Act. If for any reason it is not possible to make such an investment then the Prothonotary and Sr.Master will be at liberty to pay long term capital gains tax and to invest the balance in the name of the minor in a fixed

deposit in any scheduled bank initially for a period of five years.

4. Out of the balance amount which remains with the Prothonotary and Sr.Master, the Prothonotary and Sr.Master shall release the amount which is payable to the interior decorator as against his bills to bde submitted with an affidavit by the applicant no.1. As far as the valuer is concerned the bill submitted by him is to the tune of Rs.2,22,000/- I find that as per the guide-lines of this Court which pertain to the valuation fees there is a maximum prescribed limit of Rs.50,000/- The Advocate for the valuer states that there are further guide-lines raising this amount to Rs.1,00,000/- No such guide-lines are shown to me. In the circumstances, the Prothonotary and Sr.Master shall release the amount of Rs.50,000/- and the amount of Rs.6120/- towards service tax totalling Rs.56120/- to the valuer at the first instance. The valuer will be at liberty to move this Court in case any such circular is produced for release of the further amount. or for giving special justification as to why the amount more than Rs.50,000/- should be paid for valuation. It is expected that in

future the Court officers who are appointed as guardian ad-litem and other officers should ascertain the valuation charges in advance so that there is no dispute to be decided by the Court lateron. The petition is, therefore, allowed in terms of prayer clauses (a) and (b) and other directions as contained in this order. The Prothonotary and Sr.Master shall also release an amount of Rs.10,000/- to the guardian ad-litem for the work done sofar till today.

5. Petition stands disposed off as above with liberty to the valuer as aforesaid.

(R.S.MOHITE J.)